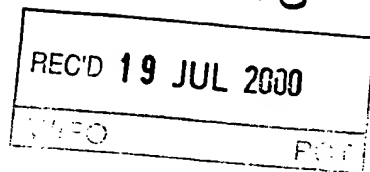


# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



Applicant's or agent's file reference <b>FP98,1815-PC</b>	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. <b>PCT/US99/16648</b>	International filing date (day/month/year) <b>22 JULY 1999</b>	Priority date (day/month/year) <b>22 JULY 1998</b>
International Patent Classification (IPC) or national classification and IPC <b>IPC(7): A61F 2/44 and US Cl.: 623/17</b>		
Applicant <b>SPINAL DYNAMICS CORPORATION</b>		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority. (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 0 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of report with regard to novelty, inventive step or industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand  <b>15 FEBRUARY 2000</b>	Date of completion of this report  <b>02 JUNE 2000</b>
Name and mailing address of the IPEA/US Commissioner of Patents and Trademarks Box PCT Washington, D.C. 20231	Authorized officer  <b>ALVIN STEWART</b> Telephone No. (703) 305-0277
Facsimile No. (703) 305-3230	

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US99/16648

## I. Basis of the report

1. With regard to the **elements** of the international application: \*☒ the international application as originally filed☒ the description:

pages 1-6, as originally filed  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_

☒ the claims:

pages 7-8, as originally filed  
pages NONE, as amended (together with any statement) under Article 19  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_

☒ the drawings:

pages 1-4, as originally filed  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_

☒ the sequence listing part of the description:

pages NONE, as originally filed  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.  
These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).  
☐ the language of publication of the international application (under Rule 48.3(b)).  
☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in printed form.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority in written form.  
☐ furnished subsequently to this Authority in computer readable form.  
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.  
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☒ The amendments have resulted in the cancellation of:

- ☒ the description, pages none  
☒ the claims, Nos. none  
☒ the drawings, sheets/fig none

5. ☒ This report has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\*Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US99/16648

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. statement**

Novelty (N)	Claims <u>1-21</u>	YES
	Claims <u>none</u>	NO
Inventive Step (IS)	Claims <u>1-21</u>	YES
	Claims <u>none</u>	NO
Industrial Applicability (IA)	Claims <u>1-21</u>	YES
	Claims <u>none</u>	NO

**2. citations and explanations (Rule 70.7)**

Claims 1-21 meet the criteria set out in PCT Article 33(2)-(4), because the prior art does not teach or fairly suggest a disc prosthesis comprising a cylindrical housing including an upper half and a lower half and a plurality of viscoelastic discs interposed between the upper half and the lower half separate from one another.

----- NEW CITATIONS -----

None

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US99/16648

**Supplemental Box**

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: Boxes I - VIII

Sheet 10

**I. BASIS OF REPORT:**

5. (Some) amendments are considered to go beyond the disclosure as filed:  
N/A

# INTERNATIONAL SEARCH REPORT

International application No.  
PCT/US99/16648

## A. CLASSIFICATION OF SUBJECT MATTER

IPC(6) : A61F 2/44

US CL : 623/17

According to International Patent Classification (IPC) or to both national classification and IPC

## B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 623/17

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

WEST

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X ----E Y	US 5,928,284 A (MEHDIZADEH) 27 July 27 1999, Figs. 1 and 5 (the wings).	11, 13-19 ----- 1, 4-7
X	US 5,674,294 A (BAINVILLE et al) 07 October 1997, Fig. 2.	18, 21
X	US 5,674,296 A (BRYAN et al.) 07 October 1997, Fig. 3.	18, 20
X ----P Y	US 5,824,093 A (RAY et al.) 20 October 1998, Figs. 11a and 11b.	8 ----- 9, 10

☒ Further documents are listed in the continuation of Box C. ☐ See patent family annex.

* Special categories of cited documents:	*T* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
*A* document defining the general state of the art which is not considered to be of particular relevance	*X* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
*E* earlier document published on or after the international filing date	*Y* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
*L* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)	*&* document member of the same patent family
*O* document referring to an oral disclosure, use, exhibition or other means	
*P* document published prior to the international filing date but later than the priority date claimed	

Date of the actual completion of the international search

21 OCTOBER 1999

Date of mailing of the international search report

18 NOV 1999

Name and mailing address of the ISA/US  
Commissioner of Patents and Trademarks  
Box PCT  
Washington, D.C. 20231

Facsimile No. (703) 305-3230

Authorized officer

ALVIN STEWART

Telephone No. (703) 305-0277

# INTERNATIONAL SEARCH REPORT

International application No.  
PCT/US99/16648

C (Continuation). DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y,P	US 5,865,848 A (BAKER) 02 February 1999, Fig. 1A.	10